

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

C-H BUILDING ASSOCIATES, LLC,

Appellant,

v.

JOE H. DUFFEY, et al.,

Respondents.

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**DOCKET NUMBER WD73871**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** January 17, 2012

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**APPEAL FROM**

The Circuit Court of Clay County, Missouri  
The Honorable Anthony Rex Gabbert, Judge

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**JUDGES**

Division Three: Mitchell, P.J., and Smart and Howard, JJ.

CONCURRING.

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**ATTORNEYS**

Thomas E. Hankins  
Gladstone, MO

Attorney for Appellant,

Michael P. Keleher  
Gladstone, MO

Attorney for Respondents.

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# MISSOURI APPELLATE COURT OPINION SUMMARY

## MISSOURI COURT OF APPEALS, WESTERN DISTRICT

Nor can the trial court's grant of summary judgment to the Duffeys be justified by the doctrine of merger. Contractual provisions as to consideration are ordinarily not merged into the deed, nor does merger apply when mistake or fraud is alleged. Because C-H alleges that the Duffeys' obligation to procure a lease between C-H and Liberty Homes was part of the consideration, along with the property, for the purchase price, and because C-H also alleged that the Duffeys represented that a lease on the property with Liberty Homes existed, and that it was only after the purchase that C-H learned that there was no lease with Liberty Homes, merger is inapplicable.

**Opinion by: Karen King Mitchell, Presiding Judge**

January 17, 2012

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THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.